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PATENT

CERTIFICATE OF EXPRESS MAIL

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Christine Kierzek
Christine Kierzek

Date: 3-10-05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. National Phase Patent Application No.: (Not Yet Assigned)

International Appl. No. PCT/EP02/03120

Inventor: FAHNLE, Oliver

Applicant: Fisba Optik AG

Attorney Docket No.: 1248.001

Filing Date: 20 March 2002 (20.03.02)

Priority: German Appl. Ser. No. 101 13 599.8; filed March 20, 2001

Title: *Device for the Abrasive Machining of Surfaces of Elements and in Particular Optical Elements or Workpieces*

**PETITION UNDER 37 C.F.R. § 1.137(b) FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY**

Mail Stop – Box PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant, through its undersigned representative, filed International Patent Application Serial No. PCT/EP02/03120 on March 20, 2002, claiming priority on German Appl. Ser. No. 101 13 599.8, filed March 20, 2001 and designating the United States for national phase entry. Applicant inadvertently failed to fulfill the requirements of 35 USC §371(c) in the time period set by 37 CFR §1.494(b) and (c). As such, the

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above-captioned national phase application became abandoned 30 months and one day from the priority date of March 20, 2001 (see 37 CFR §1.494(g)).

Applicant, through its undersigned representative, hereby petitions to revive the above-captioned national phase patent application on the grounds that said abandonment was unintentional.

37 CFR §1.137(b) permits revival of a patent application that becomes unintentionally abandoned through an applicant's failure to file a reply to an outstanding action or notice. It requires, *inter alia*, that the petition for revival must be accompanied by a reply to the outstanding action or notice. The USPTO construes a "reply" as any combination of materials "sufficient to have avoided abandonment, had it been timely filed." See MPEP §711.03(c). Where, as here, abandonment results from a failure to timely enter the national phase of an international patent application, the USPTO considers the "reply" requirement of 37 CFR §1.137(b) to be met through the filing of the materials required to fulfill the requirements of 35 USC §371(c). See, e.g., MPEP §1893.02. Those materials are enclosed, hence meeting the "reply" requirement of 37 CFR §1.137(b). The enclosed materials include:

- (a) a completed Form PTO-1390;
- (b) a copy of the International Application;
- (c) an English language translation of the International Application;
- (d) a Preliminary Amendment

- (f) the filing fee in the amount of \$1,000.00;
- (g) a duly signed declaration and power of attorney

A petition fee in the amount of \$1,500.00 as set forth in 37 CFR §1.17(m) is enclosed.

Applicant hereby states that the entire delay in filing the required reply, from the September 20, 2003 due date for replying to an outstanding action by entering the national phase until the filing of a grantable petition under 37 CFR §1.137(b), was unintentional.

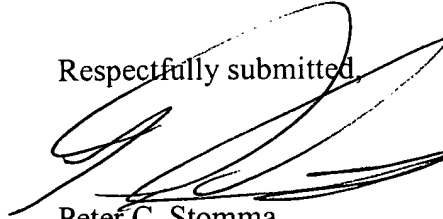
Because this application was filed after June 8, 1995, no terminal disclaimer or disclaimer fee are believed to be required.

In light of the foregoing, grant of this petition and revival of the above-captioned abandoned U.S. national phase patent application are believed to be in order and are respectfully requested. Should the Director have any remaining questions, he is requested to contact the undersigned at the telephone number appearing below.

U.S. National Phase Patent Application Ser. No. (unassigned)
International Appl. No. PCT/US02/19211
Inventor: Diedrich, Thomas J.
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No additional fees are believed to be payable at this time. Nevertheless, the Director is hereby authorized to charge payment of any other fees associated with this communication or credit any overpayment to Deposit Account No. 50-1170.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Stomma', written over the typed name.

Peter C. Stomma
Registration No. 36, 020

Date: March 9, 2005

Boyle, Fredrickson, Newholm, Stein & Gratz, S.C.
250 East Wisconsin Avenue, Suite 1030
Milwaukee, Wisconsin 53202
(414) 225-9755
Customer No. 23598